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7 GREENLIGHT SYSTEMS, LLC, et al.,  
8 Plaintiffs,  
9 v.  
10 ERIK BRECKENFELDER,  
11 Defendant.

Case No. [19-cv-06658-EMC](#)

**ORDER GRANTING  
COUNTERCLAIMANT'S MOTION  
FOR AWARD OF ATTORNEYS' FEES**

Docket No. 116

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14 Plaintiffs Greenlight Systems, LLC (“Greenlight”) and Orbital Asset Holdings, Inc.  
15 (“Orbital”) sued Defendant Erik Breckenfelder for fraud and breach of contract related to their  
16 employment agreement. *See* Docket No. 2 (“Compl.”). The Court dismissed Plaintiffs’  
17 Complaint, entered default on Breckenfelder’s counterclaims against Greenlight, Orbital and  
18 Andrew D.B. Rowen (“Rowen”) (collectively, “Counterdefendants”), and awarded Breckenfelder  
19 attorneys’ fees. *See* Docket Nos. 33, 84, 89. The Court also entered default judgment in favor of  
20 Breckenfelder’s on his contract and employment counterclaims in the amount of \$691,384.30. *See*  
21 Docket Nos. 114, 115.

22 Pending before the Court is Counterclaimant Breckenfelder’s unopposed motion for award  
23 of attorneys’ fees incurred in pursuing his contract and employment counterclaims. Docket No.  
24 116. For the following reasons, the Court **GRANTS** Breckenfelder’s motion for award of  
25 attorneys’ fees.

26 **I. RELEVANT BACKGROUND**

27 Counterdefendants filed the complaint originating this matter, which alleged four causes of  
28 action against Breckenfelder, on October 16, 2019. Docket No. 2. Breckenfelder filed an answer

1 and counterclaims on December 4, 2019. Docket No. 17 (the “Counterclaim”). Breckenfelder’s  
2 Counterclaim asserted eight causes of action. *Id.* Four of Breckenfelder’s claims alleged  
3 violations of California wage-and-hour laws for which a prevailing employee is entitled to recover  
4 attorneys’ fees. *See Id.* at 14-19; Cal. Lab. Code § 1194(a) (employee prevailing on California  
5 minimum wage claim is entitled to a “a reasonable attorney’s fee to be paid by the defendant, and  
6 costs of the action.”); Cal. Lab. Code § 226(e)(1) (employee prevailing on claim for failure to  
7 provide wage statements “is entitled to an award of costs and reasonable attorney’s fees.”); and  
8 Cal. Lab. Code § 218.5 (“In any action brought for the nonpayment of wages . . . the court shall  
9 award reasonable attorney’s fees and costs to the prevailing party”).

10 After Counterdefendants “repeatedly failed to respond to discovery requests, in violation of  
11 several orders from this Court,” the Court dismissed Counterdefendants’ claims against  
12 Breckenfelder on May 28, 2020. Docket No. 114 at 5. “Due to Counter-defendants’ continued  
13 non-compliance with discovery, the Court entered default on Mr. Breckenfelder’s counterclaims  
14 on November 17, 2020.” *Id.* at 6. On January 28, 2021, Breckenfelder moved for entry of default  
15 judgment on his counterclaims and, after conducting an evidentiary hearing, the Court granted  
16 Breckenfelder’s Motion for Default Judgment on June 28, 2021. Docket No. 114. The Court  
17 found in Breckenfelder’s favor regarding each of the applicable causes of action in the  
18 Counterclaim, including all four causes of action related to non-payment of wages entitling him to  
19 recover attorneys’ fees under California law (unpaid minimum wage, failure to provide an  
20 itemized wage statement, failure to keep payroll records and waiting time penalties).<sup>1</sup> *Id.* at 8-13,  
21 22-25. The Court awarded Breckenfelder \$687,544.30 in compensatory damages for  
22 Counterdefendants’ fraud and conversion, \$3,840 in compensatory damages for Greenlight’s  
23 wage-and-hour violations, and ordered Counterdefendants to pay \$43,473.75 in unpaid sanctions  
24 previously awarded during the litigation. *Id.* at 32.

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26 <sup>1</sup> Breckenfelder brought minimum wages claims under both federal and California law because he  
27 was not paid any wages while employed at Greenlight. Docket No. 17 ¶¶ 71, 79. The Court found  
28 that the parties “agreed that California law would govern their employment agreement,” and thus  
found in favor of Breckenfelder on his minimum wage claims under California law. Docket No.  
114 at 12.

## 1 II. DISCUSSION

### 2 A. Breckenfelder's Entitlement to an Award of Attorneys' Fees

3 California provides for the recovery of reasonable attorneys' fees and costs incurred by an  
4 employee who prevails in an action to recover minimum wages, to vindicate violations of  
5 California Labor Code Section 226, and for waiting-time penalties. *See* 29 U.S.C. § 216(b); Cal.  
6 Lab. Code § 1194(a); Cal. Lab. Code § 226(e)(1); Cal. Lab. Code § 218.5.

7 The Court found that "Breckenfelder has sufficiently pled his minimum wage claims" and  
8 that he "was not paid any wages for his work." Docket No. 114 at 12-13. The Court held,  
9 "Counter-defendants must pay Mr. Breckenfelder a \$450 penalty under section 226(a) for failing  
10 to provide him with . . . itemized wage statements" and that "Breckenfelder qualifies for the  
11 waiting time penalty under section[] 203 because it is undisputed that he was not paid minimum  
12 wages upon resigning." *Id.* at 23-24. Thus, the Court's entry of default judgment in  
13 Breckenfelder's favor on each of his wage-and-hour claims, Docket No. 114 at 22-25, confirms he  
14 is entitled to recovery of reasonable attorneys' fees and costs on those claims.

### 15 B. Calculation of Reasonable Attorneys' Fees

16 It is well-settled that the award of attorneys' fees is a matter within the discretion of the  
17 Court, and that an award of attorneys' fees cannot be disturbed on appeal absent a showing of  
18 abuse of discretion. *Seymour v. Hull & Moreland Eng'g*, 605 F.2d 1105, 1116 (9th Cir. 1979). To  
19 assess reasonable attorneys' fees for Breckenfelder state law claims, under California law "[t]he  
20 primary method for establishing the amount of reasonable attorney fees is the lodestar method."  
21 *In re Vitamin Cases*, 2 Cal.Rptr.3d 358 (Cal. Ct. App. 2003) (internal quotation marks and  
22 citations omitted). The Court determines the lodestar amount by multiplying a reasonable hourly  
23 rate by the number of hours reasonably spent litigating the case. *See Ferland v. Conrad Credit*  
24 *Corp.*, 244 F.3d 1145, 1149 (9th Cir. 2001).

25 Breckenfelder states he "does not seek attorneys fees associated with Counterdefendants'  
26 causes of action nor those incurred in pursuing his fraud and conversion causes of action," but,  
27 "given Counterdefendants' failure to substantively litigate this matter, essentially all of his fees  
28 relate to work done to compel Counterdefendants to meaningfully participate in this litigation."

1 Docket No. 116 at 4. Breckenfelder contends that such efforts, including the need to bring  
2 repeated motions to compel Counterdefendants to participate in discovery and, ultimately, to move  
3 for sanctions, “applied all of the claims in the case equally, rather than to any individual claim or  
4 claims.” *Id.* Thus, Breckenfelder proposes to recover a pro-rata portion of his overall attorneys’  
5 fees “based on the proportion of his wage-and-hour cause of action compared to the total number  
6 of causes of action at issue in this litigation.” *Id.* Accordingly, he seeks one-third of the fees  
7 incurred prior to the May 28, 2020 dismissal of Counterdefendants’ Complaint, because his four  
8 wage-and-hour causes of actions represented one-third of the twelve causes of action at issue  
9 during this period, *see id.*; Docket No. 2 (Complaint) (four claims), and one-half of the fees  
10 incurred after May 28, 2020, because his wage-and-hour claims represented one-half of the eight  
11 causes of action pending in the Counterclaim, Docket No. 116 at 6.

12 The Court finds Breckenfelder’s proposal for pro-rata fee recovery reasonable. The Court  
13 agrees that Breckenfelder’s primary efforts throughout this litigation were to address  
14 Counterdefendants’ failure to meaningfully participate, and that Counterdefendants’ failure to  
15 participate gave rise to the Court’s dismissal of Counterdefendants’ complaint and entry of default  
16 judgment on the Counterclaim in favor of Breckenfelder. *See* Docket No. 114. The Court agrees  
17 that Counterdefendants’ lack of participation in the litigation affected all of the issues in the  
18 litigation equally, and, therefore, finds reasonable Breckenfelder’s proposal to recover fees based  
19 on the proportion of all pending issues that the recoverable claims represented throughout the  
20 litigation. The Court finds reasonable Breckenfelder suggestion to compensate him for one-third  
21 of fees incurred through May 28, 2020, when the recoverable claims were four of the twelve  
22 pending claims at issue, and for one-half of fees incurred after May 28, 2020, when the  
23 recoverable claims were four of the eight pending claims at issue.

24 Breckenfelder submitted a record of contemporaneously tracked hours for each of the  
25 attorneys and staff members who worked on the relevant aspects of this case and each of their  
26 respective hourly rates. *See* Docket No. 117 (Declaration of Scott Lawson). Breckenfelder’s  
27 submission shows attorneys’ fees from October 1, 2019 through May 28, 2020 in the amount of  
28 \$83,025.30, and from May 28, 2020 to June 1, 2021 in the amount of \$115,460.59. The Court has

1 reviewed the rates and rationales for the fees provided in the submission and finds them  
2 reasonable. Finally, Breckenfelder submits an accounting and request for \$2,170 in fees as a cost  
3 in connection with preparing this motion, Docket No. 118 (Declaration of Ian Forgie) which the  
4 Court finds reasonable. Accordingly, the Court calculates Breckenfelder is entitled to the  
5 following fees:

6 Fees for Litigation prior to May 28, 2020: (\$83,025.30) x (1/3) = \$27,675.10

7 Fees for Litigation after May 28, 2020: (\$115,460.59) x (1/2) = \$57,730.30

8 Fees for Attorneys' Fees Motion: \$2,170

9 The attorneys' fees to which Breckenfelder is entitled amount to \$87,575.40. The total  
10 amount of sanctions previously awarded to Breckenfelder against Counterdefendants in this action  
11 is \$43,483.75. *See* Docket No. 114 at 32. Subtracting the prior sanctions awards from the total  
12 fees incurred as Breckenfelder suggests, the Court orders the amount of **\$44,091.65** in statutory  
13 attorneys' fees added to the final judgment.

14 **III. CONCLUSION**

15 The foregoing reasons, Counterclaimant Breckenfelder's motion for attorneys' fees,  
16 Docket No. 116, is **GRANTED**, and attorneys' fees in the amount of \$44,091.65 are awarded to  
17 Breckenfelder, jointly and severally liable against all Counterdefendants is ordered added to the  
18 judgment.

19 This order disposes of Docket No. 116.

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21 **IT IS SO ORDERED.**

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23 Dated: October 12, 2021

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EDWARD M. CHEN  
United States District Judge

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